

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:14-CV-312-FL

MUNTHER OMAR BAYYARI, AFAF
BAYYARI, and OMAR BAYYARI,

Plaintiffs,

v.

GERALD M. SHAPIRO; GRADY I. INGLE;
DAVID S. KREISMAN, ET AL, d/b/a
Shapiro and Ingle LLP; and SHAPIRO AND
INGLE, LLP,

Defendants.

ORDER

This matter comes before the court for review of plaintiffs' *pro se* complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). United States Magistrate Judge Robert B. Jones entered a memorandum and recommendation ("M&R"), pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), wherein he recommends that the court remand plaintiffs' claim to the extent it seeks to remove a state foreclosure action, and dismiss plaintiffs' complaint for failure to state a claim upon which relief may be granted to the extent it alleges constitutional due process violations. Plaintiff has not filed objections to the M&R, and the time within which to make any objection has expired. In this posture, the issues raised are ripe for ruling.

Upon a careful review of the M&R, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Because no objections have been filed, the court reviews the magistrate judge's findings and conclusions only for clear error, and need not give any explanation for adopting the M&R. Diamond

v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

Here, the magistrate judge recommends that plaintiffs' complaint be remanded to the extent it seeks removal of a state foreclosure action, because the court lacks subject matter jurisdiction. He further recommends that the complaint be dismissed for failure to state a claim, to the extent it alleges constitutional due process violations, because the defendants are not amenable to suit under 42 U.S.C. § 1983, based on the facts alleged. Upon careful review of the M&R, the court finds the magistrate judge's analysis to be thorough, and there is no clear error. The court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, plaintiffs' complaint is REMANDED to the extent it seeks removal, and DISMISSED to the extent it alleges constitutional due process violations. The clerk of court is directed to close the case.

SO ORDERED, this the 23rd day of October, 2014.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

LOUISE W. FLANAGAN
United States District Court Judge